

# HOUSE BILL REPORT

## HB 2607

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### As Reported by House Committee On: Local Government

**Title:** An act relating to vacation of county roads with access to bodies of water.

**Brief Description:** Providing counties the ability to vacate county road rights of way.

**Sponsors:** Representatives Curtis and Haler.

#### Brief History:

##### Committee Activity:

Local Government: 1/18/06, 2/1/06 [DPS].

#### Brief Summary of Substitute Bill

- Allows a county to abandon all or part of a roadway that abuts waterfront, provided the abandonment is part of a county plan, adopted by resolution or ordinance, that provides for mitigation of the effects of the abandonment with respect to water access.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Simpson, Chair; Clibborn, Vice Chair; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan, Takko and Woods.

**Staff:** Thamas Osborn (786-7129).

#### Background:

##### Authorization for a county to vacate and abandon a county road.

A board of county commissioners (board) may vacate and abandon a county road upon the entry of a resolution finding that the road or any part thereof is "useless." The entry of such a resolution must be consistent with specified substantive and procedural requirements, which include:

- At the direction of the board, the county road engineer must conduct a study of the proposed road abandonment, make specified factual findings, and then make a recommendation as to whether the road should be abandoned.
- After meeting specified public notice requirements, the board must conduct a public hearing on the proposed abandonment, during which the board must consider the

report of the county road engineer and any other evidence presented regarding the proposal.

- Based upon the evidence presented at the public hearing, the board may authorize the abandonment of the road upon a finding that (1) the road is not useful and that (2) the public will benefit by the abandonment of the road.

These procedural steps may be initiated either by the resolution of the board or by a petition presented to the board by a majority of those owning the frontage on the portion of the road subject to the abandonment proposal.

**General prohibition against the abandonment of waterfront roadways.**

A county, however, may not abandon a county road that abuts a body of fresh or salt water, unless the purpose of the abandonment is to enable a public authority to acquire the vacated property for specified purposes, including:

- port purposes;
- boat moorage or launching sites; or for
- parks, viewpoints, recreation, educational, or other public purposes.

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**Summary of Substitute Bill:**

A county may abandon all or part of a roadway that abuts waterfront, provided the abandonment is part of a county plan, adopted by resolution or ordinance, that provides for mitigation of the effects of the abandonment with respect to water access. Specifically, the plan must provide that the county will take action to ensure that comparable public access is provided to the same shoreline abutted by the abandoned roadway.

**Substitute Bill Compared to Original Bill:**

- Deletes the amendatory provisions of the original bill.
- Allows a county to abandon all or part of a roadway that abuts waterfront, provided the abandonment is part of a county plan, adopted by resolution or ordinance, that provides for mitigation of the effects of the abandonment with respect to water access. Specifically, the plan must provide that the county will take action to ensure that comparable public access is provided to the same shoreline abutted by the abandoned roadway.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 18, 2005.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** (In support) This bill is intended to protect certain property owners from losing their property and/or homes as the result of long-abandoned county road easements that run through their property and which happen to abut a waterway. Many such easements date from the nineteenth century and have never been used for the creation of a roadway. In other cases, roads were created and later abandoned, leaving little or no trace of their existence. These situations have led to many land title problems. There is no mechanism under current law for a property owner to petition a county to vacate such easements and thus such property owners are precluded from obtaining clear title to their property. Furthermore, the existence of such easements has prevented some property owners from being able to develop their property. This bill is needed in order to provide a remedy for property owners affected by this problem. The provisions of the bill will not have the effect of diminishing public access to bodies of water.

(With concerns) The statutes that address this issue should remain as is and the bill should not be passed. Easements allowing for water access are an important public resource and should be preserved in perpetuity. The provisions in the bill provide cause for concern regarding the preservation of public access to aquatic lands and may have unintended consequences.

**Persons Testifying:** (In support) Representative Curtis, prime sponsor; Josh Brower, Mentor Law Group; and Dwight Bickel, Washington Land Title Association.

(With Concerns) Loren Stern, Department of Natural Resources; Eric D. Johnson, Washington Public Ports Association; and Tom Clingman, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.